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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

PENSION BENEFIT GUARANTY CORPORATION,

Plaintiff,

Civil Action No. C08-02107 JW

C&G CONTRACTORS, INC., as plan administrator of the C&G Contractors, Inc. Defined Benefit Pension Plan,

**NOTICE BY PLAINTIFF OF
VOLUNTARY DISMISSAL
WITH PREJUDICE**

Defendant.

Because all issues have been consensually resolved by the named parties, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and (B), Pension Benefit Guaranty Corporation (“PBGC”) hereby gives notice of the voluntary dismissal of the above-captioned case with prejudice.

PBGC is the sole plaintiff in this case. To date, the sole defendant, C&G Contractors, Inc, as plan administrator of the C&G Contractors, Inc. Defined benefit Pension Plan (“Pension Plan”), has not entered an appearance or served PBGC with any answer, motion or other document in this action. Accordingly, pursuant to Civ. R. Civ. P. 41(a)(1)(A)(i) and (B),

NOTICE BY PLAINTIFF OF VOLUNTARY DISMISSAL

1 PBGC may without a court order, voluntarily dismiss this litigation with prejudice.¹

2 Pursuant to 29 U.S.C. § 1342(c), on May 22, 2008, PBGC and C&G Contractors, Inc.
3 executed an agreement consensually resolving all of the issues in this litigation. A copy of the
4 agreement is attached hereto as Exhibit A. The agreement provides that the Pension Plan is
5 terminated, PBGC is appointed statutory trustee of the Pension Plan and, under 29 U.S.C.
6 § 1348(a)(3), October 31, 2004 is established as the termination date.

7 Respectfully submitted,

8 /s/ Mark R. Snyder
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12 Dated: June 20, 2008

25 ¹ On November 5, 2007, PBGC voluntarily dismissed *PBGC v. C&G Contractors, Inc.*
26 *Defined Benefit Pension Plan*, Civil Action No. 07-cv-03837-SC, in this Court. The earlier case
27 involved the same claims alleged in this case. PBGC disclosed these facts in para. 18 of the
Complaint and stated that the agency intends to file a related case motion under Loc. R. 3-3(c)
and 3-12(b). After PBGC had C&G Contractors, Inc. served on May 1, 2008, C&G Contractors,
Inc. agreed to a consensual resolution of this case. Accordingly, PBGC gives notice that it is
dismissing this case with prejudice.

**AGREEMENT FOR APPOINTMENT OF
TRUSTEE AND TERMINATION OF PLAN**

This is an AGREEMENT between the Pension Benefit Guaranty Corporation ("PBGC") and C&G Contractors, Inc:

RECITALS:

- A. PBGC is a United States government agency established by Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, 29 U.S.C. §§ 1301-1461 ("ERISA").
- B. C&G Contractors, Inc. ("Company") is a corporation organized under the laws of California.
- C. The Company established the C&G Contractors, Inc. Defined Benefit Pension Plan ("Plan") to provide retirement benefits for certain of its employees.
- D. The Plan is an employee pension benefit plan to which 29 U.S.C. § 1321(a) applies and is not exempt under 29 U.S.C. § 1321(b). The Plan is therefore covered by Title IV of ERISA.
- E. The Company is the administrator of the Plan within the meaning of 29 U.S.C. §§ 1002(16) and 1301(a)(1).
- F. The Plan is unable to pay benefits currently due participants and, as of October 31, 2004, was unable to pay benefits currently due.
- G. On October 31, 2004, the Company was a contributing sponsor of the Plan within the meaning of 29 U.S.C. § 1301(a)(13).

H. PBGC has issued to the Company a Notice of Determination under 29 U.S.C. § 1342(a), that the Plan does not have assets available to pay benefits currently due, and that the Plan should be terminated under 29 U.S.C. § 1342(c), to protect the interests of the Plan's participants.

NOW THEREFORE, the parties agree:

1. The Plan is terminated under 29 U.S.C. § 1342(c).
2. The Plan termination date is October 31, 2004, under 29 U.S.C. § 1348.
3. PBGC is appointed trustee of the Plan under 29 U.S.C. § 1342(c).
4. The Company and any other person having possession or control of any records, assets or other property of the Plan, including records related to the calculation of benefits under the Plan, shall convey and deliver to PBGC such records, assets or property.
5. PBGC will have, with respect to the Plan, all of the rights and powers of a trustee specified in ERISA or otherwise granted by law.

The persons signing this Agreement are authorized to do so. The Agreement will take effect on the date the last person signs below.

C&G CONTRACTORS, INC.

Dated: 5/13/08

By: Jerry L. Guss
Jerry L. Guss, President

PENSION BENEFIT GUARANTY CORPORATION

Dated: 5/22/08

By: Wanda M. Atta
Auditor